

IN THE CIRCUIT COURT OF LEE COUNTY, ARKANSAS

APRIL WILSON  
PARENT AND GUARDIAN  
OF MATTHEW WILSON, A MINOR

PLAINTIFF

FILED  
at 2:30 o'clock p.m.

SEP 21 2007

CIRCUIT CLERK  
LEE COUNTY, AR

VS

CASE/DIV. NO: CIV-127

RC2 CORPORATION

DEFENDANT

CLASS ACTION COMPLAINT

COMES NOW the Plaintiff, April Wilson as Parent and Guardian for Matthew Wilson, by and through her attorney, acting on behalf of all other consumers in the state of Arkansas similarly situated to the Plaintiff, pursuant to Ark. R. Civ. Proc. 23 hereby brings this cause of action against the Defendant, RC2 Corporation, and alleges and states the following:

1. That the Plaintiff was at all times relevant to this complaint a resident of Lee County, Arkansas.
2. That the Defendant, RC2 Corporation, is a corporation headquartered in Oak Brook, Illinois, and conducts business in the State of Arkansas
3. That the Defendant, RC2 Corporation, does not have a registered agent in the State of Arkansas, and, thus, service is proper under the provisions of ARK. CODE ANN. § 4-27-1510.
4. That jurisdiction for this action is in this Court pursuant to the provisions of ARK. CODE ANN. § 16-4-101, and 16-13-201.
5. That the proper venue for this action in is this Court pursuant to the provisions of ARK. CODE ANN. § 16-60-112.

6. Plaintiff represents those classes of all children under the age of eighteen (18) living in the State of Arkansas who are in possession of Thomas & Friends™ Wooden Railway trains and accessories manufactured between January 2005 and June 2007 and coated with toxic lead paint, and who have been, continue to be, and may in the future be adversely affected by the actions and omissions which are the subject of this complaint.

7. Defendant has acted or failed to act in a manner which is generally applicable to all of those who are represented, and the claims of the representative parties are typical of the claims or defenses of the class.

8. That the class is so numerous that joinder of all members of the class is impracticable. There are questions of law and fact common to the class, and the representative Plaintiff herein will fairly and adequately protect the interests of the entire class. The relief sought below is common and beneficial to the class.

9. That between the dates of January 2005 through June 2007 the Plaintiff obtained possession of various Thomas & Friends™ Wooden Railway trains and accessories laden with toxic lead paint for the purpose of entertainment and play.

10. That the Defendant designed, produced, supplied, marketed, and put into the stream of commerce various Thomas & Friends™ Wooden Railway trains and accessories that were obtained and used by the Plaintiff.

11. That the various Thomas & Friends™ Wooden Railway trains and accessories obtained and used by the Plaintiff in fact contained unlawful, harmful, and toxic lead paint.

12. That on or about June 13, 2007, the Defendant issued a recall that included the various Thomas & Friends™ Wooden Railway trains and accessories obtained and used by the Plaintiff and admitted therein that the trains and accessories contained toxic lead paint.

13. That lead paint causes a wide range of health effects, from behavioral problems and learning disabilities, to seizures and death, and children are most at risk because their bodies are growing quickly.

14. That lead paint has been known to be a threat to the health of children for over thirty (30) years, and, the Defendant's use of such unreasonably dangerous lead paint on such popular children's toys in the year 2007 is unconscionable, reckless, wonton, and negligent.

15. That there is no such thing as a "safe" level of lead exposure, and, thus, the Plaintiff and class members have undoubtedly suffered damages because of the unlawful and unnecessary exposure of lead paint at the unconscionable, reckless, wonton, and negligent conduct of the Defendant.

16. That the Plaintiff and class members have suffered damages from being exposed to the toxic and poisonous lead paint and will be forced to medically monitor the exposure, which will undoubtedly be time consuming and expensive.

17. That the Defendant unconscionably profited by designing, producing, supplying, marketing, and placing into the stream of commerce unlawful, toxic, and deadly toys into the State of Arkansas, all at the expense of the children of the State of Arkansas, and all of which were directly marketed to the same.

18. That the Defendant is a commercial supplier of Thomas & Friends™ Wooden Railway trains and accessories, and in fact supplied the toxic children's toys to hundreds of retail stores in the state of Arkansas.

19. That the Thomas & Friends™ Wooden Railway trains and accessories that were supplied and sold covered in toxic lead paint were unreasonably dangerous, and no warning thereof was given by the Defendant.

20. That the damage claim of the representative Plaintiff does not meet or exceed the jurisdictional requirements for diversity of citizenship, nor do the claims of each individual class member meet or exceed the jurisdictional requirements for diversity of citizenship.

21. That the claims of the class members cannot be aggregated for jurisdictional requirements for diversity of citizenship.

22. That the Defendant must be deterred by this action from unjustly and unconscionably profiting at the expense of the health of the children residing in the State of Arkansas.

23. That the Defendant is liable to the Plaintiff and the class under the theories of Negligence, Strict Liability, Products Liability, and Breach of Implied Warranty of Merchantability and Fitness for a Particular Purpose.

**WHEREFORE**, the Plaintiff, as representative of the aforementioned class, prays for judgment against the Defendant, RC2 Corporation, in the amount of **FOUR MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$4,750,000.00 USD)**, for injuries and damages sustained caused by Defendant's willful negligence, for costs, attorney's fees and all other relief to which the Plaintiff and the class may be entitled. The Plaintiff

prays that the awarded damages be placed into a fund that will pay for medical testing of any children under the age of eighteen (18) who are at risk of lead poisoning because of exposure to the Defendant's toxic trains and accessories. The Plaintiff prays that the said fund be established immediately, and be continued for a period of ten (10) years, at which time the remaining balance, if any, be granted to an Arkansas non-profit research center for the purpose of conducting lead paint research.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Davy Carter', is written over a horizontal line.

Davy Carter  
Attorney for Plaintiff  
P. O. Box 922  
Cabot, AR 72023  
(501) 843-2237  
#2006039

IN THE COURT OF LEE COUNTY, ARKANSAS

DIVISION

CASE NUMBER

CV 2007- 127

SUMMONS

Plaintiff: April Wilson, Parent and Guardian of Matthew Wilson, a Minor

VS.

Defendant: RC2 CORPORATION

Plaintiff Attorney: Davy Carter

Address: P. O. Box 922, Cabot, AR 72023

THE STATE OF ARKANSAS TO DEFENDANT: RC2 Corporation  
1111 West 22<sup>nd</sup> Street, Ste. 320  
Oak Brook, IL 60523

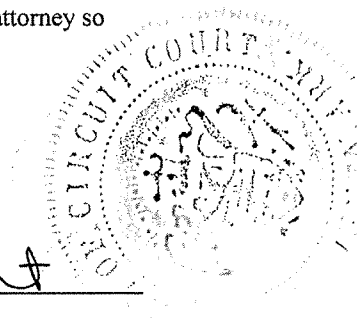
NOTICE

1. You are hereby notified that a lawsuit has been filed against you; the relief asked is stated in the attached complaint.
2. The attached complaint will be considered admitted by you and a judgment by default may be entered against you for the relief asked in the complaint unless you file a pleading and thereafter appear and present your defense. Your pleading or answer must meet the following requirements:
  - A. It must be in writing, and otherwise comply with the Arkansas Rules of Civil Procedure.
  - B. It must be filed in the Court Clerk's office within ~~30~~ 30 Days from the day you were served with this summons.
  - C. A copy of your response must be delivered or mailed with sufficient postage to the plaintiff's attorney or to the plaintiff.
3. If you desire to be represented by an attorney, you should immediately contact your attorney so that an answer can be filed for you within the time allowed.
4. Additional Notices:

WITNESS my hand and seal of the Court this 21 day of Sept. 2007.

State of Arkansas  
Lee County Circuit Clerk  
15 East Chestnut  
Marianna, AR 72360

Clerk  
By: D. Hart  
Deputy Clerk



STATE OF ARKANSAS COUNTY OF LEE

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, at \_\_\_\_\_ o'clock \_\_\_\_ M., I have duly served the within summons by delivering a copy thereof (or stating the substance thereof), together with a copy of the complaint to \_\_\_\_\_ such person being:

CHECK APPLICABLE SQUARE:

- Y the person named therein as defendant.
- Y A member of the Defendant's family above 14 years of age at defendant's usual place of abode, namely \_\_\_\_\_
- Y The duly designated agent for service of process for the defendant, namely \_\_\_\_\_

OTHER. \_\_\_\_\_

\_\_\_\_\_, SHERIFF  
Or Authorized Agent for Service of Process